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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/991,620	11/05/2001	Hideki Tanaka	B588-025	4702
26272	7590	09/09/2005		
COWAN LIEBOWITZ & LATMAN P.C. JOHN J TORRENTE 1133 AVE OF THE AMERICAS 1133 AVE OF THE AMERICAS NEW YORK, NY 10036			EXAMINER FISCHETTI, JOSEPH A	
			ART UNIT 3627	PAPER NUMBER

DATE MAILED: 09/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/991,620

Applicant(s)

TANAKA, HIDEKI

Examiner

Joseph A. Fischetti

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 February 2005.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-10,12-15 and 17-20 is/are pending in the application.
4a) Of the above claim(s) 5,8,10,12-14,19 and 20 is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1,3,4,6,7,9,15,17,18 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____

Election/Restrictions

Applicant's election without traverse of species 3,4,17 and 18 in the reply filed on 2/10/05 is acknowledged.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1,3,6,7,9,15,17 are rejected under 35 U.S.C. 103(a) as being unpatentable over *in view of Walker et al 534* 97

Peachey-Kountz et al.¹ Peachy-kountz teach an order acceptance management apparatus for assigning a rank to an orderer and implementing acceptance of an order for a commodity in accordance with rank assigned to the orderer (see abstract)

comprising:

delivery-schedule acquisition means for acquiring information concerning a delivery schedule of a commodity and means for deciding a delivery date (see col. 9, lines 52-62). Peachey-Kountz et al also teach the step of notifying the computer of whether the order will be accepted (see, for example, col. 10, lines 53-61); inventory acquisition means for acquiring information concerning number of units of the commodity in stock from storage means in which the number of units of commodity in stock has been stored

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upon being allocated to a number of groups corresponding to a number of ranks (see col. 4, lines 45-55.

Peachy-Kountz also disclose:

if the allocated number of units of the commodity in stock that belongs to a first group corresponding to a first rank assigned to the orderer is not less than the number of units of the commodity in the issued order, said determination means determines that the issued order is accepted and the allocated number of units of the commodity in stock stored in the storage means that belongs to said first group is replaced with a number that is difference value between the allocated number of units of the commodity in stock that belongs to the first group and the number of units of the commodity of the issued order, see Peachy Kountz: "In a preferred embodiment system, the new order is netted out from supply identified for the customer, first from currently available supply, supply for the current and, then, prior periods. If more supply is still required, other..." col. 11.

if the allocated number of units of the commodity that belongs to the first group corresponding to the first rank assigned to the order is less than the number of units of the commodity in the issued order, said determination means determines that the issued order is not accepted and determines whether there is an allocated number of units of the commodity in stock that belongs to a second group corresponding to a second rank lower than the first rank see Peachy Kountz col. 11:

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If more supply is still required, other customers' currently available supply is used to fill the order, i.e., from other customers with the same or lower priority. If, however, it is determined in step 154 that current supply is insufficient to meet the order, then, in step 156, the supply available to fill the order is supplemented from other, lower tier, forecast groups currently available supply. So, after determining that supply, previously designated for other forecast groups of the same or lower priority is currently available, that previously designated supply is made available and allocated, as needed, according to steps 144-154.

However, the system in Peachy-Kountz does not have a determining means/step for determining whether an order can be accepted if the order has issued. However, Walker et al. '534 disclose col. 19 lines 6-15 a determining means which compares a CPO (order) against a set of rule and based upon this comparison either accepts or rejects an issued CPO. It would be obvious to modify the system/method of Peachy-Kountz to include the up/down determining means of Walker et al because the motivation would be the preservation of inventory not otherwise available to the orderer.

Re claim 3, 17: see col. 4 lines 45-55 of Peachy.

Re claim 6: the computer connection is the communication channel of Peachy.

RE claim 7: Walker et al. has means for notifying as elements 200 (same motivation repeated).

RE claim 9: server 200 of Peachy inherently has a storage means.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Peachy-Kountz and Walker et al. as applied above, and further in view of Haung.

The above referenced combination fails to teach ranking based on performance, but Haung et al does disclose a performance based supply system see col. 95. It would be obvious to modify Peachy-Kountz to include the performance based supply feature the Haung et al. the motivation being getting supply to the most needy.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

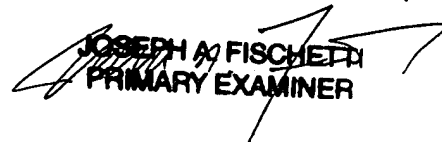
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication should be directed to Joseph A. Fischetti at telephone number (703) 305-0731.

Joseph A. Fischetti
Primary Examiner
Art Unit 3627



JOSEPH A. FISCHETTI
PRIMARY EXAMINER